

FACTSHEET

TITLE: **USE PERMIT NO. 04002**, requested by Thomas C. Huston on behalf of Cameron Corporation, for 112 dwelling units (townhomes) and two outlots in the O-3 Office Park District, with associated waiver requests, on property generally located at W. Fletcher Avenue and N.W. 12th/13th Streets.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 07/21/04
Administrative Action: 07/21/04

STAFF RECOMMENDATION: Conditional Approval

RECOMMENDATION: **Denial** (6-1: Marvin, Larson, Carlson, Krieser, Pearson and Carroll voting 'yes'; Bills-Strand voting 'no'; Taylor declaring a conflict of interest; Sunderman absent).

FINDINGS OF FACT:

1. This is a request to develop 112 townhomes within the O-3 Office Park zoning district. The applicant is also requesting the following waivers:
 - To reduce front, rear and side yard setbacks;
 - Location of sanitary sewer main;
 - Location of water main;
 - Lot depth-to-width ratio;
 - Sanitary sewer flowing opposite street grades; and
 - Preliminary plat process.
2. The staff recommendation of conditional approval, including approval of all waiver requests, is based upon the "Analysis" as set forth on p.4-5, concluding that, with conditions, the proposal is in conformance with the Comprehensive Plan and the zoning and subdivision ordinances.
3. The applicant's testimony and testimony in support is found on p.10-12. The applicant agreed with all conditions of approval. In response to the issue of density, the applicant pointed out that in addition to the other uses that would be permitted in the O-3 zoning district, the property would support 175 single family homes, 460 apartment units for multi-family or 280 townhome dwelling units. This application is for 40% of the maximum density that would otherwise be permitted under the O-3 zoning district. The record also consists of one speaker and one letter in support (p.36).
4. Testimony in opposition is found on p.12, and the record consists of eight letters in opposition (p.37-45).
5. On July 21, 2004, the majority of the Planning Commission disagreed with the staff recommendation and voted 6-1 to recommend **denial** (Bills-Strand dissenting; Taylor declaring a conflict of interest; Sunderman absent). The majority of the Planning Commission found that the application should be denied based on neighborhood opposition to the design characteristics; incompatibility with the surrounding neighborhood; and the number of waiver requests (See Minutes, p.15-16).
6. At the beginning of the public hearing, Rick Peo of the City Law Department reviewed the role of the Planning Commission in reviewing use permits, i.e. it is primarily a site planning tool and not a discretionary approval process to determine whether the use is appropriate (See Minutes, p.10).
7. Due to the recommendation of denial, the applicant has not satisfied the Site Specific conditions of approval normally required prior to scheduling the application on the City Council agenda. Therefore, any action by the City Council approving this use permit should include the Site Specific conditions of approval.

FACTSHEET PREPARED BY: Jean L. Walker

REVIEWED BY: _____

REFERENCE NUMBER: FS\CC\2004\UP.04002

DATE: August 2, 2004

DATE: August 2, 2004

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for July 21, 2004 PLANNING COMMISSION MEETING

P.A.S.: Use Permit #04002

PROPOSAL: To develop 112 dwelling units, one lot for future development and one outlot.

LOCATION: W. Fletcher Avenue and NW 12th/13th Street.

WAIVER REQUEST:

Front yard setback

Rear yard setback

Side yard setback

Location of sanitary sewer main

Location of water main

Lot depth to width ratio

Sanitary sewer flowing opposite street grades

Waive the preliminary plat process

LAND AREA: 19 acres, more or less.

CONCLUSION: With conditions the request is in conformance with the Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance.

RECOMMENDATION:

Conditional Approval

Front yard setback

Approval

Rear yard setback

Approval

Side yard setback

Approval

Location of sanitary sewer main

Approval

Location of water main

Approval

Lot depth to width ratio

Approval

Sanitary sewer flowing opposed street grades

Approval

Waive the preliminary plat process

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached.

EXISTING ZONING: O-3, Office Park

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North:	Undeveloped	I-2, Industrial Park
South:	Public pool, golf course	P, Public
East:	Residential	R-3, Residential
West:	Golf course	P, Public

COMPREHENSIVE PLAN SPECIFICATIONS: This area is shown as commercial in the Comprehensive Plan (F-25)

Areas of retail, office and service uses. Commercial uses may vary widely in their intensity of use and impact, varying from low intensity offices, to warehouses, to more intensive uses such as gas stations, restaurants, grocery stores or automobile repair. Each area designated as commercial in the land use plan may not be appropriate for every commercial zoning district. The appropriateness of a commercial district for a particular piece of property will depend on a review of all the elements of the Comprehensive Plan. (F-22)

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods. (F-17)

Affordable housing should be distributed throughout the region to be near job opportunities and to provide housing choices within every neighborhood. Encourage different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population. (F-18)

Require new development to be compatible with character of neighborhood and adjacent uses (F-69).

HISTORY:

City Council changed the zone from R-4, Residential to O-3, Office Park on July 1, 1996. (Staff recommended denial of office zoning)

City Council changed the zone from R-3, Residential to R-4, Residential on May 23, 1994. (Applicant requested O-3 and was denied, City Council approved R-4 zoning)

TOPOGRAPHY: Sloping to the south and west.

TRAFFIC ANALYSIS: Fletcher Avenue and NW. 12th/13th are classified as urban minor arterial. NW 12th Street is shown in the current CIP for design in 2010, however the proposed CIP does not show NW 12th as part of the program. W Fletcher is shown for construction in the current 2004 CIP for a two lane plus turn lanes. The construction is underway presently and includes the re-alignment of NW 13th Street. Internal roads are to be private roadways.

There is a trail location identified on the west side of NW 12th/13th Street extending north to Fletcher and south from this site on the trails map.

REGIONAL ISSUES: The change from office use to residential use reduces the amount of available office space in the area. However, it appears that sufficient office space is available in the Technology Park and in Fallbrook, nearby.

ENVIRONMENTAL CONCERNS: The south portion of the site is close to an existing golf-hole. There is a possibility that errant golf balls may hit the residential buildings and pose some risk for people who may be in the path of any golf balls. The Parks and Recreation Department or golf course plans to install an 8' chain link fence along the perimeter of the golf course.

AESTHETIC CONSIDERATIONS: Each building has four attached units, creating a building that is approximately 100 feet in length. The rear of the building is simple, with a flat building face. Due to this, the scale of the building is large and disproportionate. Planning staff asks to reduce the scale of the buildings by orienting the front of the buildings toward NW 12th Street. The applicant agreed and submitted a drawing showing added elements that reduce the scale of the building and provide a front facade toward NW 12th Street.

ALTERNATIVE USES: Office and other permitted uses in the O-3 district.

ANALYSIS:

1. This is a request to develop 112 townhomes within the O-3, Office Park district. The applicant requests to reduce front, side and rear yard setbacks. The O-3, Office Park district indicates that townhouses are a permitted use in the district, provided that a use permit is submitted.
2. The history of this parcel indicates that it was previously zoned residential. In both cases of request for office zoning, planning staff recommended denial and indicated this parcel is appropriate for residential. Staff still believes this parcel is appropriate for residential.
3. The applicant has requested setback waivers. It appears that since the lots are situated on a large outlot, that most of these waivers may be unnecessary if the lots are enlarged. Planning staff does not object to the waivers. Due to the large outlot surrounding the individual lots, the reduction in the setbacks will be unnoticeable.
4. Planning staff believes the new construction will be compatible with the existing houses in the area based on the computer generated elevations submitted by the applicant.
5. The development meets the Comprehensive Plan goal to increase the number of dwelling units per acre and provide more of a variety of housing types in a neighborhood.
6. The Public Works and Utilities Department indicated the requested waivers to construct sanitary sewer opposite of street grades is acceptable provided that the minimum and maximum depths are not exceeded. Public Works and Utilities Department indicated that the request to construct water mains on the south side of the private roadway is acceptable, and approved the request to waive design standards for cul-de-sac geometry to provide a 30' radius turnaround.
7. The applicant needs to show a potential lot layout for Lot 61 and provide for connectivity to the proposed use. Planning staff believes that an easement for future road extension is sufficient, and agrees that extension is only required if Lot 61 develops residentially. The applicant was not opposed to showing this easement on the site plan when staff discussed it with them. The

Public Works and Utilities Department indicated that a direct access to W. Fletcher Avenue from Lot 61 would be limited to right in and right out only.

8. The O-3 district does not have specific screening standards for multi-family. This may have been an oversight not anticipating an entirely residential project within an O-3 district. Multi-family developed with a community unit plan would be required to screen the perimeter of the site 50% from 6'-15'. Planning staff believes the screening requirement for CUP's should be extended for this project. Providing this screening will also bring down the scale of the rear building facades. The applicant did not object to the added screening. The applicant and Parks and Recreation Department will coordinate the planting of additional trees on city property, in addition to the screening provided on the applicant's property.
9. The Lincoln Lancaster County Health Department had two advisory comments indicated in their attached memo.
10. The Public Works and Utilities Department had several comments as indicated in their attached memo. Revisions are required to their satisfaction.
- The Parks and Recreation Department had several comments as indicated in their attached memo. Revisions are required to their satisfaction.

CONDITIONS:

Site Specific:

1. After the subdivider completes the following instructions and submits the documents and plans and 6 copies to the Planning Department office, the item will be scheduled on the City Council agenda:
 - 1.1 Revise the plans to show:
 - 1.1.1 Potential layout of Lot 61 with easement for street extension provided that Lot 61 develops into residential.
 - 1.1.2 Extend the 6' high opaque privacy fence to screen the patios from the street.
 - 1.1.3 Provide a 50% from 6'-15' screen around the perimeter of the site, using deciduous plant materials.
 - 1.1.4 Change W. Webster Gailes Road to W. Webster Street.
 - 1.1.5 Provide a name for each cul-de-sac within W. Royal Dornoch Court.
 - 1.1.6 Add a note to the plan indicating that this development is within the Airport Environs Noise District and all development must comply with L.M.C. Chapter 27.58 and 27.59.

- 1.1.7 Provide hydrant locations to the satisfaction of the Fire Prevention/Life Safety Code section of the Building and Safety Department.
- 1.1.8 Provide utility easements as requested by Lincoln Electric System.
- 1.1.9 Add the waiver to the preliminary plat process to the waivers table.
- 1.1.10 Provide changes as requested by Public Works and Utilities Department dated July 7, 2004.
- 1.1.11 Provide changes as requested by Parks and Recreation Department dated July 9, 2004.
- 1.1.12 Add a note indicating the city will install an 8' tall chain link fence at the top of the retaining wall along a common property boundary in the mid and northern areas of the proposed development to be maintained by the city.

2. The City Council approves associated request:

- 2.1 An exception to the design standards to permit sanitary sewer main and water main in an alternate location and to allow sanitary opposite to flow opposite street grades.
- 2.2 A waiver to the reduce the front, side and rear yard setbacks as shown on the site plan.
- 2.3 A modification to the requirements of the land subdivision ordinance to permit lots that exceed the maximum lot depth to width ratio and to waive the preliminary plat process.

General:

3. Final Plats will be approved by the Planning Director after:

- 3.1 The permittee shall have submitted a revised and reproducible final plan including 7 copies showing the following revisions and the plans are acceptable.
- 3.2 The sidewalks, streets, drainage facilities, street lighting, landscape screens, street trees, temporary turnarounds and barricades, and street name signs have been completed or the subdivider has submitted a bond or an escrow of security agreement to guarantee their completion.
- 3.3 The subdivider has signed an agreement that binds the subdivider, its successors and assigns:

- 3.3.1 to complete the street paving of all streets shown on the final plat within two (2) years following the approval of the final plat.
- 3.3.2 to complete the installation of sidewalks along both sides of all internal streets and along the west side of NW 12th/13th Street and the south side of W. Fletcher Avenue as shown on the final plat within four (4) years following the approval of the final plat.
- 3.3.3 to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.
- 3.3.4 to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.
- 3.3.5 to complete the enclosed drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.
- 3.3.6 to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat
- 3.3.7 to complete the installation of private street lights along streets within this plat within two (2) years following the approval of the final plat.
- 3.3.8 to complete the planting of the street trees along streets within this plat within four (4) years following the approval of the final plat.
- 3.3.9 to complete the planting of the landscape screen within this plat within two (2) years following the approval of the final plat.
- 3.3.10 to complete the installation of the street name signs within two (2) years following the approval of the final plat.
- 3.3.11 to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
- 3.3.12 to complete the public and private improvements shown on the preliminary plat and Use Permit.
- 3.3.13 to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis and to maintain the plants in the medians and islands on a permanent and continuous basis. However, the subdivider may be relieved and

discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

- 3.3.14 to continuously and regularly maintain the street trees along the private roadways and landscape screens.
- 3.3.15 to submit to the lot buyers and home builders a copy of the soil analysis.
- 3.3.16 to pay all design, engineering, labor, material, inspection, and other improvement costs.
- 3.3.17 to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
- 3.3.18 to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.
- 3.3.19 to timely complete the public and private improvements and facilities required by Chapter 26.23 of the Land Subdivision Ordinance which have not been waived including but not limited to the list of improvements described above.
- 3.3.20 to post the required security to guarantee completion of the required improvements if the improvements are not completed prior to approval of the final plat.
- 3.3.21 to acknowledge that the land is within the airport environs noise district.
- 3.3.22 to acknowledge this parcel is adjacent a golf course and near one of the golf greens.
- 3.3.23 to grant the city access to the city installed 8' high chain link fence for maintenance purposes.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:

- 4.1 Before occupying the dwelling units all development and construction shall have been completed in compliance with the approved plans.
- 4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
- 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

Becky Horner
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Planner

DATE: July 6, 2004

APPLICANT: Cameron Corporation
3900 Pine Lake Road, Suite 1
Lincoln, NE 68516
(402)730-8548

OWNER: Highlands Development
3555 Orwell Street
Lincoln, NE 68516

USE PERMIT NO. 04002

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 21, 2004

Members present: Marvin, Larson, Carlson, Krieser, Pearson, Carroll and Bills-Strand; Taylor declared a conflict of interest; Sunderman absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda and had separate public hearing due to letters received in opposition.

Becky Horner of Planning staff submitted six letters in opposition and one letter in support. Rick Peo, City Law Department, advised the Commission as to their role on the review of use permit applications. This is a use permit, not a special permit. Therefore, the standard of review is different. Based on prior case law (Whitehead Oil v. City of Lincoln), the District Court and the Supreme Court analyzed the city's use permit process and determined that it is primarily a site planning tool and not a discretionary approval process to determine whether the use is appropriate. The consideration is to be whether the use complies with the zoning ordinances and regulations. The proposed townhouses are a permitted use in the O-3 Office Park district. The Planning Commission does have a role in determining whether waivers should be granted and whether additional conditions are necessary to make the property compatible and that it will have no adverse impact on abutting properties. It is not a "yes" or "no" situation.

Marvin inquired as to the nature of Commissioner Taylor's conflict of interest. Peo stated that Taylor is President of the Highlands Neighborhood Association and he felt there could be an appearance for impropriety for him to take an active role based on his membership and leadership in that organization. There are two types of conflicts of interest. One is by statute where the Commissioner owns the property or may have a financial benefit. The city's ordinance is broader than the state statute and if a Commissioner believes there may be an appearance of impropriety, a conflict of interest may be declared on that basis.

Proponents

1. Tom Huston, 233 S. 13th Street, Suite 1900, appeared on behalf of the **Cameron Corporation**, the applicant who is seeking approval of 112 townhome units on approximately 16 acres at N.W. 13th and W. Fletcher. Huston gave a history of the site. When the city annexed the Highlands in the early 1990's, the land for the golf course was acquired. The remainder was sold to the Highlands Coalition, including this property. It has been undeveloped since that time period and has gone through several zoning changes from R-3 to R-4 to O-3. Huston agrees that the townhomes are a permitted use under the O-3 zoning district, where the ordinance states that, "...A building or premises shall be permitted to be used for the following purposes.....Townhouses." Huston cited the other types of uses that are permitted in O-3, including office, single-family, two-family and multi-family, in addition to townhomes, etc., as a matter of right.

Huston indicated that he has reviewed some of the correspondence received by the Planning Commission and he knows there is concern about density. But, he pointed out that other uses that would be permitted on this parcel in the O-3 district would support 175 single family homes; 460 apartment units for multi-family; and 280 townhome dwelling units. This applicant is requesting 112 townhome dwelling units, which is roughly 40% of the maximum that would otherwise be permitted under the O-3 zoning. The 112 townhomes is comparable to what would be permitted in the R-3 zoning district in a community unit plan.

Huston noted that the staff report makes several references to the Comprehensive Plan, and he believes the Comprehensive Plan should be a good guide for the Planning Commission to move this item forward because the Comprehensive Plan calls for maximization of present infrastructure and a way to do that is to increase the number of dwelling units on a per acre basis. The Comprehensive Plan also talks about fostering home ownership--citizens should be able to afford to buy a safe and decent home. The proposed dwelling units will sell in the \$125,000 range. The Lincoln Board of Realtors' most recent calculations on average home prices have increased from \$123,000 to \$146,000, or a 20% increase, in about 4 years. The Comprehensive Plan is designed to encourage and foster home ownership and this project will help support that goal. The Comprehensive Plan also states that affordable housing should be distributed throughout the community. Therefore, this type of project is the type that the Comprehensive Plan encourages. It is at the intersection of two arterial streets and across the street from some industrial zoned land.

Huston also pointed out that this property could be platted and it could be developed without any waivers, but the waivers add some design features that are desirable for this community. Huston has also discussed improving the aesthetics with the Planning Department. There are no code requirements to do so, but they tried to address the aesthetics issue. Huston also noted that the Parks Departments is requesting that a fence be constructed and this applicant is providing an easement, and is dealing with sediment control, surface water detention and landscaping concerns.

Huston stressed that this type of project is being developed in the city. The market has accepted these types of units as a safe and affordable way to buy a decent house. The Planning Department worked with this applicant to achieve the highest and best use of this property.

This is a home ownership project designed to provide housing opportunities for a segment of the market that is not being served. The covenants are designed to protect the neighborhood and the community. There are a lot of services provided to the members from snow removal to yard care, etc.

2. Judy Anderson, 248 Parkside Lane, testified in support as one of the people looking to purchase one of these units. She has lived in Lincoln for 10 years, worked in court systems for 25 years, and she is not wanting to buy a house because of the yard upkeep. The townhome association she lives in now provides yard and snow removal. She has been an active member of her townhome board. This is a good idea for the community because there are others like herself who do not want the responsibility of lawn care and maintenance of a single-family dwelling.

Opposition

1. Gordon Bjorman, 1133 N.W. Gary Street, testified in opposition as President and on behalf of the NW Highlands Neighborhood Association. He circulated an informal petition to determine the scope of opposition and found that 85% of the residents are opposed. There are a myriad of issues all related to one core issue—the density. This density impacts many facets of our community. This plan requires waivers to all of the yard setbacks. He understands the Comprehensive Plan has goals to increase the density, but this development is too dense in too tight of a space in this existing neighborhood. With regard to safety, the increase in traffic flow is a concern because of the location in the immediate vicinity of the pool and its crosswalk. One of the two entrances is immediately adjacent to the pool. Fredstrom School is already using temporary facilities for classrooms and students are being bused to North Star. A visit to the area could demonstrate the impact of this development on the view and aesthetic qualities. This is a significant concern, significant enough that it is discussed in the staff report even though there are no code requirements. The buildings will be quite long. The neighbors believe that compatibility is more than just the elevation of the houses—the style and format of the neighborhood needs to be considered.

Bjorman suggested that this development will negatively impact the quality of the neighbors' lives and services. Bjorman showed photographs of a project in the area of 91st and Pine Lake Road depicting one style as high density homes maximizing space, and then there is another area two blocks east where the density is not as great and the homes are more in conformance with the neighborhood.

This neighborhood has put time, effort and commitment into the area. The owners live there now, have been living there, and will live there after the developer and their counsel move on to the next order of business. There are too many waivers required to make this plan work and Bjorman believes that this plan maximizes profits for a few outsiders. The neighbors are not unrealistic, are not opposed to development and are not opposed to all construction. Their desire is good planning and prosperity for the neighborhood. While the Comprehensive Plan seeks to increase the houses per acre, the plan also stipulates that the new development be compatible with the character of the neighborhood and the adjacent uses, and this proposal clearly is not.

Several people in the audience raised their hands in support of Bjorman's testimony in opposition.

Staff questions

Carroll referred to the Parks Department comments which talk about resilient materials on the exterior. Will that be part of the requirements? Horner stated that it is a requirement of the approval of this use permit, so there will be a note added to the site plan. At the time of building permit, it will be verified by the Building & Safety Department. That is only on the golf course side.

Larson inquired about a traffic light by the pool. Chad Blahak of Public Works stated that Public Works has studied that crossing and at the time, it did not meet the warrants for a pedestrian crossing. It will be studied again at the completion of the Fletcher and N.W. 12th roundabout to reassess the needs. Larson believes consideration should be given to the fact that almost all of the people using this crossing are youngsters and there should be a different standard for that kind of crossing.

Carlson quoted the passage in the Comprehensive Plan about preservation of residential character and compatibility. He asked staff to cite the conditions that help insure compatibility. Horner advised that the staff asked the applicant to orient the fronts of the buildings toward the streets, although this could not be made a requirement. The applicant showed the staff computer generated information that showed shutters and awnings and other things to scale down the building. It was their suggestion to provide a frontage to N.W. 12th Street.

Carroll referred to hole #10 on the golf course, suggesting that people who tend to slice will result in the golf ball going towards these townhomes. Is there any liability to the city, and at what point in time does the city make the decision to put up a net? Steve Hiller of the Parks Department stated that typically, case law associated with golf courses has said that the individual who hits the golf ball is the one that is responsible for any damage by the hitting of that golf ball. There are several cases that exist where the golfer has been found responsible for any damage or injuries or costs. In terms of a net, he is hopeful that we do not get to that point. A net would be a real burden to maintain. There are nets in some locations and they are quite difficult to maintain because of the fact that they are quite tall and very hard to support; they don't last for a long period of time; and they are a constant maintenance headache. Hiller did not know what the deciding factor would be to require a net. He also does not understand what history has to do with this proposal. The golf course has been there since 1992. This development is coming in 12 years after the establishment of the golf course. The staff has made it clear to the developer that this is an area where golf balls do fly. They have discussed the potential for additional landscaping on the golf course property to help deter as many golf balls as possible. They have discussed developing a more natural area along the border of the golf course as a deterrent to keep golfers away from that area and to encourage them to stay in the fairway.

Pearson asked about the philosophy of waivers. This development requires front, rear and side yard setback waivers. She understands the side yard, but there are a lot of other waivers being requested. Horner explained that the depth to width ratio waiver is very standard with townhouse lots. The Planning Director has authority to approve this waiver on townhouse lots, but it has been included here. With regard to the yard setbacks, the applicant indicated the purpose was to bend the road a little bit and provide for more relief of the buildings. There is an outlot around all of this so they would not need some of these waivers. The waiver of the preliminary plat process is pretty standard now.

Marvin asked staff to discuss the history on the zoning on this property. Horner stated that the property was zoned R-3. In 1994, the owner came forward with a request to O-3; the staff recommended denial of O-3 saying it was appropriate for residential uses. The Planning Commission and City Council denied the O-3 request and the City Council countered with R-4. The owner waited two years and came back for O-3 in 1996. The staff again recommended denial of the O-3 and the Planning Commission and City Council approved it at that time.

The homes across the street were built in late 1990's, 2000, and 2001. Marvin asked Horner whether it is fair to say the purchasers across the street bought under the understanding that this property was going to be lower density residential than what is being proposed today. Horner responded, stating that in 2000 it would have been zoned O-3 and they would have been able to see the uses allowed in O-3. Even under the R-4 district, the owner could have asked for a CUP, which would have changed the configuration. She could not say what purchasers might have understood when they purchased their lots.

Response by the Applicant

Huston addressed the waiver issue. The site plan shows the street meandering. The developer had toyed with and discussed a different concept which did not have the curve in the street. That site plan does not require any of the waivers now being requested. The waivers are designed to allow us to address the aesthetic concerns, recognizing there are no code issues. These waivers are no different than were approved in other similar projects around this community and no different than a project which the Planning Commission recommended for approval two weeks ago. These waivers are accepted within the industry and planning world for this type of development. If they had not platted the common area to be used and enjoyed by all the residents of this community, they would not need the waivers.

With regard to compatibility with the neighborhood, Huston pointed out that N.W. 13th Street is 100-110' width right-of-way. Condition #1.2 requires that those units that face the street screen their patios. That is something none of the other projects have been required to do. As far as the less dense project at 91st & Pine Lake Road to which the opposition referred, Huston pointed out that those units are selling for \$180,000 to \$190,000, which does not address the segment of the community that this development is attempting to focus upon. We have to be willing to live by the rules that we have created. This is a permitted use and there is not a lot of discretion.

Carlson wondered why a Talent Plus type situation--an office zoning employer--did not work out all the time the property was zoned O-3. Huston stated that he does not represent the prior property owner, but when you look at the requirements in O-3, there is a difference in height limitations. For residential uses in O-3, the height limitation is 35', but for office uses it is a 45' height limitation. This project is restricted to 35' height by the code requirements.

Huston also suggested that the O-3 district is a very broad district. In 1992-93, he worked with the Highlands Coalition and the city to get the SID out of bankruptcy and the O-3 zoning was used because of its flexibility and the lack of knowledge as to how the area might be developed. This is a permitted use under the O-3 zone and that is why the applicant did not request a change of zone to R-3.

Pearson pointed out, however, that if it were an O-3 building at 45', it wouldn't be nearly this long. She is not convinced that the units facing the golf course are going to sell for \$125,000. Huston's response was that on an average, it is fair to say the maximum price will be under \$130,000.

Pearson also suggested that if waivers were accepted as standard, the Commission wouldn't be contemplating them every time they come up.

Bills-Strand asked Rick Peo to restate the role of the Planning Commission in review of use permits. Peo advised that use permits should not be granted unless in conformance with city ordinance and regulations applicable to the zoning code. The Planning Commission can impose conditions to insure compliance with the Comprehensive Plan and to protect the health, safety and general welfare. Such conditions may include increase in minimum yard requirements, decrease in maximum height, consideration of effect on the surrounding neighborhood, etc. The City Council makes the final decision on the waiver requests. The use permit process has been under litigation and parameters were established by the Supreme Court as being a site planning tool. The Planning Commission's

discretion is limited first to determination of whether the use is a permitted use in the district (townhomes are a permitted use), and secondly, whether or not it fits in and complies with the requirements unless waivers are granted. The limitation is to site related issues – are the setbacks sufficient, whether they be with or without waivers. The Commission must look at the project as a whole as to achieving compatibility based on neighborhood uses and Comprehensive Plan considerations. If the Commission is going to find that the project is not compatible or not in compliance with the Comprehensive Plan, then the Commission needs to be making specific findings to that effect to justify the rationale for imposing any additional conditions.

Pearson asked Peo to define “public health, safety and welfare”. That is what this board is here to determine as well as the land uses. Peo suggested that it refers to public health, safety and welfare in relationship to the rules and regulations that the city has adopted. In this particular area, there are standards.

Marvin offered a scenario. If this property was next to a shooting range for clay pigeons, and there was a residential area at the far end, would it be permissible for Planning Commission to find that to be a site related issue and that it is not appropriate for a residential area to be in close proximity to a shooting range? Peo recalled a situation in the county where it was not so much that it was prohibited but there was a greater setback established to say that houses could not be in the likely range of errant shots. It did not prohibit the ability to protect by providing added setback between the two uses to achieve the compatibility as opposed to trying to prohibit.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 21, 2004

Marvin moved to deny, seconded by Pearson.

Marvin stated that when he found out the property was zoned O-3 (and he probably has more information than most of the residents), he envisioned an office with dentists, etc. He was surprised with this plan and he is sure many of the residents were surprised. He knows that the Commission has been given direction by the Law Department, and since it is in the O-3 zoning, the Commission is kind of “pinched” in terms of whether they can actually vote “no” on this issue. But, Marvin believes there is enough latitude here that he can vote to deny and defend his vote.

Carlson agreed with Marvin. As far as a specific finding, he pointed to all of the neighbors that indicated their opposition to the design character, and since compatibility is called out in the Comprehensive Plan, that is what becomes the issue for him. His finding is that the issue of compatibility has not been resolved.

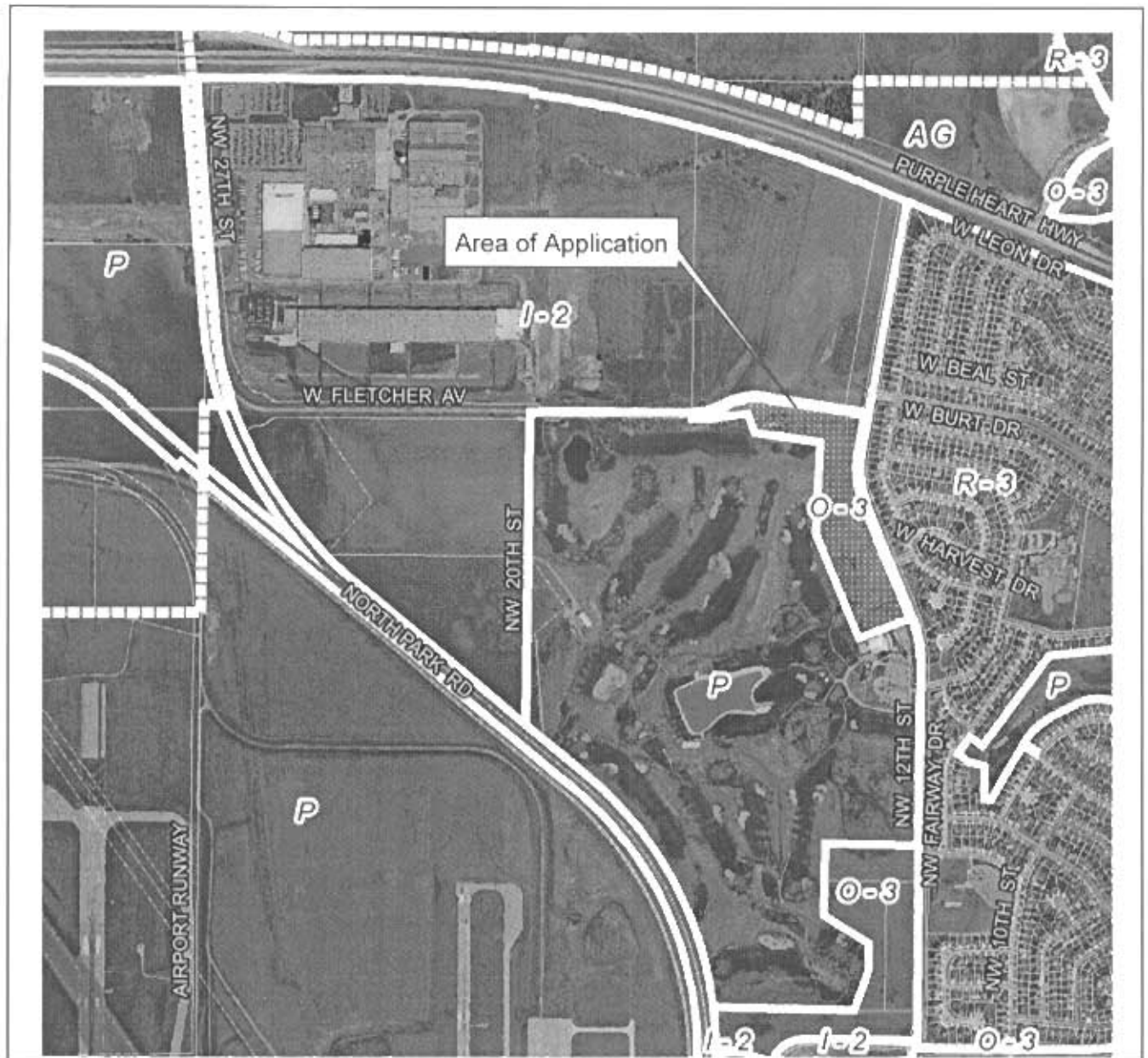
Carroll is concerned about all of the waivers, especially along the golf course side. People are going to want to buy there for the view, but they will realize that they don't want to live there because of the golf balls and we will end up having vacant houses and tenants. Perhaps the applicant could change the design so that they wouldn't need some of the waivers. He does not believe it is prudent for this site to allow those waivers and make it difficult for people on the golf course.

Bills-Strand reminded the Commission that their role is to determine whether the use complies with the zoning ordinance. She does not necessarily like the design in that there should be more setback along

the golf course for reasons of safety, but the Commission's role is to say whether the use complies. We can change the waivers and put the burden on the developer to provide for the safety.

Larson believes there are just too many units squeezed in there. Safety considerations and heavy traffic near the swimming pool and golf course are other reasons that he cannot support the application.

Motion to deny carried 6-1: Marvin, Larson, Carlson, Krieser, Pearson and Carroll voting 'yes'; Bills-Strand voting 'no'; Taylor declaring a conflict of interest; Sunderman absent. This is a recommendation to the City Council.



Use Permit #04002 NW 13th & W. Fletcher Ave.

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

Four Square Mile
Sec. 3 T10N R6E
Sec. 4 T10N R6E
Sec. 33 T11N R6E
Sec. 34 T11N R6E



City Limit Jurisdiction



017



BRIAN D. CALABRESE
& ASSOCIATES, INC.

LAND USE PLANNING
RESIDENTIAL
& COMMERCIAL
DESIGN

ONE OLD COUNTRY ROAD
SUITE 100
LINCOLN, NE 68504
TEL: (402) 441-1111
FAX: (402) 441-1111
WWW.BDCALABRESE.COM

HIGHLANDS
TOWNHOMES

LINE PERMIT

N.W. 15TH ST. &
PLEYDERS AVE.
LINCOLN, NE

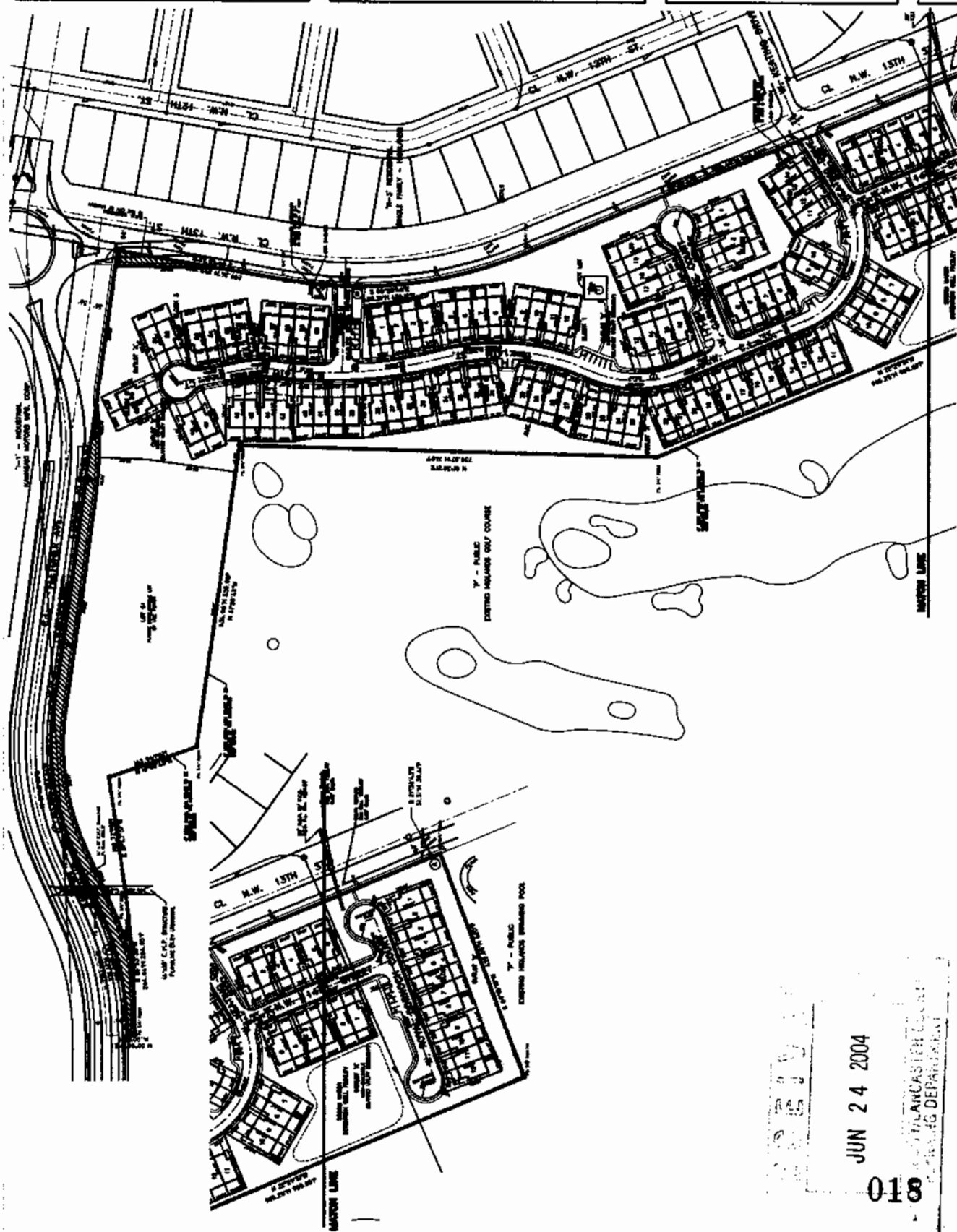
SITE
PLAN



SCALE: 1"=60'

DATE: 06/24/04
BY: BDC

2 OF 6



JUN 24 2004

018

PLANNING DEPARTMENT
CITY OF LINCOLN



LEGAL DESCRIPTION

A METES AND BOUNDS DESCRIPTION OF OUTLOT F, HIGHLANDS COALITION LOCATED IN SECTIONS 3 AND 4, TOWNSHIP 10 NORTH, RANGE 6 EAST AND SECTIONS 33 AND 34, TOWNSHIP 11 NORTH, RANGE 6 EAST OF THE 6TH P.M. AND MORE FULLY DESCRIBED AS FOLLOWS:

REFERRING TO THE INTERSECTION OF NW 13TH STREET AND FLETCHER AVENUE; THENCE: S09°45'32"W, (AN ASSUMED BEARING), ON THE CENTERLINE OF SAID NW 13TH STREET, A DISTANCE OF 36.02 FEET; THENCE: N82°00'13"W, A DISTANCE OF 50.02 FEET TO THE NORTHEASTERLY CORNER OF SAID OUTLOT F AND THE POINT OF BEGINNING; THENCE: S09°45'32"W, ON THE EASTERLY LINE OF OUTLOT F AND THE WESTERLY RIGHT-OF-WAY LINE OF NW 13TH STREET, A DISTANCE OF 299.24 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 32°17'18", A RADIUS OF 770.00 FEET, AN ARC LENGTH OF 433.93 FEET, A CHORD LENGTH OF 428.21 FEET AND A CHORD BEARING S06°20'46"E; THENCE: ON SAID CURVE AND SAID LINE, A DISTANCE OF 433.93 FEET TO THE POINT OF TANGENCY; THENCE: S22°30'37"E, ON SAID LINE, DISTANCE OF 966.49 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 01°48'44", A RADIUS OF 990.00 FEET, AN ARC LENGTH OF 31.31 FEET, A CHORD LENGTH OF 31.31 FEET AND A CHORD BEARING S21°38'43"E; THENCE: ON SAID CURVE AND SAID LINE, A DISTANCE OF 31.31 FEET TO THE SOUTHEASTERLY CORNER OF OUTLOT F; THENCE: S69°15'15"W, ON THE SOUTHERLY LINE OF OUTLOT F, A DISTANCE OF 420.05 FEET; THENCE: N22°29'51"W, ON SAID LINE, A DISTANCE OF 905.25 FEET; THENCE: N01°30'21"E, A DISTANCE OF 739.87 FEET; THENCE: N81°58'45"W, A DISTANCE OF 534.96 FEET; THENCE: N18°58'45"W, A DISTANCE OF 163.96 FEET; THENCE: S81°47'37"W, A DISTANCE OF 192.72 FEET; THENCE: S85°53'36"W, A DISTANCE OF 264.04 FEET; THENCE: N00°00'19"E, A DISTANCE OF 14.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF FLETCHER AVENUE AND THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 24°17'59", A RADIUS OF 526.00 FEET, AN ARC LENGTH OF 223.08 FEET, A CHORD LENGTH OF 221.41 FEET AND A CHORD BEARING N77°42'06"E; THENCE: ON SAID CURVE AND SAID LINE, A DISTANCE OF 223.08 FEET TO THE POINT OF TANGENCY; THENCE: N65°39'38"E, ON SAID LINE, A DISTANCE OF 116.33 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 32°22'07", A RADIUS OF 454.00 FEET, AN ARC LENGTH OF 256.48 FEET, A CHORD LENGTH OF 253.09 FEET AND A CHORD BEARING N81°48'00"E; THENCE: ON SAID CURVE AND SAID LINE, A DISTANCE OF 256.48 FEET TO THE POINT OF TANGENCY; THENCE: S82°00'13"E, ON SAID LINE, A DISTANCE OF 813.82 FEET TO THE POINT OF BEGINNING AND CONTAINING A CALCULATED AREA OF 19.372 ACRES MORE OR LESS.

RECEIVED

JUN 24 2004 020

CLERK/LANDS DEPT
PLANNING DEPT



NEW VENTURES

PROPOSED REAR ELEVATION



EXISTING REAR ELEVATION

LAW OFFICES OF
CLINE, WILLIAMS, WRIGHT, JOHNSON & OLDFATHER, L.L.P.

1900 U.S. BANK BUILDING

233 SOUTH 13TH STREET

LINCOLN, NEBRASKA 68508-2095

(402) 474-6900

FAX (402) 474-5393

www.cline-law.com

CHARLES M. PALLESEN, JR.
FREDRIC H. KAUFFMAN
DONALD F. BURT
ALAN E. PETERSON
STEPHEN E. GEHRING
KEVIN COLLIERAN
ROBERT J. ROUTH
L. BRUCE WRIGHT
JAMES M. BAUSCH
DAVID R. BUNTAIN
STEPHEN M. NELSEN
MICHAEL C. MUELLER
DANIEL R. STODDILL
SCOTT D. KELLY
TERRY R. WITTIER
MARK A. CHRISTENSEN
RICHARD P. GARDEN, JR.
SHAWN D. BENNER
JOHN C. MILES
MARY KAY O'CONNOR
THOMAS C. HUSTON
DON R. JANSSEN

OMAHA
ONE PACIFIC PLACE
1125 SOUTH 103RD, SUITE 320
OMAHA, NEBRASKA 68124-1090
(402) 397-1700

AURORA
1207 M. STREET
P.O. BOX 510
AURORA, NEBRASKA 68818
(402) 894-6314

SCOTTSBLUFF
RAILWAY OFFICE PLAZA
115 RAILWAY STREET, SUITE B-104
SCOTTSBLUFF, NEBRASKA 69361
(308) 635-1020

SUSAN KUBERT SAPP
KEVIN J. SCHNEIDER
ANDREW D. STROTSMAN
JILL COSSIN JENSEN
STEVEN M. DELANEY
JOHN C. HEWITT
JOHN L. HOBAN
MICHAEL C. PALLESEN
TRACY A. OLDEMAYER
JANIS J. WINTERHOF
PAMELA EPP OLSEN
TRENT R. SIDDERS
JENNIE A. KUEHNER
ANDRE R. BARRY
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BETH E. KIRSCHBAUM
TRAVIS P. O'GORMAN
DOUGLAS R. ABERLE
BRIAN J. ADAMS

CHARLES E. WRIGHT, COUNSEL
RICHARD P. JEFFRIES, COUNSEL

June 24, 2004

Mr. Marvin Krout, Director of Planning
Lincoln City/Lancaster County Planning Department
555 South 10th Street, Suite 213
Lincoln NE 68508

Re: Highlands Townhomes – Use Permit at N.W. 13th Street
and Fletcher Avenue
Our File: COB07-RE001

Dear Mr. Krout:

On behalf of the Cameron Corporation, we hereby submit the application for a Use Permit to be issued under LMC §27.27.020. The subject property is located west of N.W. 13th Street, adjacent to the Highlands public golf course, and south of Fletcher Avenue. The Highlands Townhomes project consists of 112 townhome lots. Each townhome unit would be built upon its own platted lot. All of the lots will access the private roads within the development that will ultimately be owned and maintained by a townhome unit owners association. The water and sanitary sewer service will be public. Each two-story townhome unit will contain approximately 1700 square feet and will have a two-stall attached garage and parking for two additional vehicles in the driveway.

The subject property is bordered on the west by Highlands golf course, on the east by N.W. 13th Street which is a designated arterial street, and on the north by Fletcher Avenue which is also a designated arterial. The subject property was originally acquired by the City of Lincoln when the Highlands Sanitary Improvement District #9 was annexed by the City of Lincoln in the early 1990s.

L0603796.1

JUN 24 2004

RECEIVED
LINCOLN CITY/LANCASTER COUNTY
PLANNING DEPARTMENT

023

The property was then sold to the Highlands Coalition and has remained vacant and undeveloped for more than ten years.

The townhomes designed for the subject property are permitted uses under LMC §27.27.020(e). The number of dwelling units evidenced by the Use Permit site plan is less than otherwise would be permitted on a density calculation under the O-3 Office Park district.

The waivers noted on the site plan assist my client in addressing some of the design elements that the Planning Staff asked to be addressed. For example, the private streets within the Use Permit have been designed with some curve to break up the line of sight from the rear of the units. In addition, we enclose five copies of elevation drawings showing some additional exterior changes that were incorporated into the design of the units to further address some of the aesthetic concerns raised by Planning Staff. The new design incorporates a cantilevered hip roof over the rear door of the units and reflects additional shutters added to the rear windows.

During the design process, my client, Brian Carstens & Associates, and I met with Steve Hiller of the Lincoln City Park & Recreation Department. Mr. Hiller raised several concerns which have been incorporated into the design. Initially, the detention cell located on Outlot A has been designed to detain the surface water on site. In addition, the Parks & Recreation Department expressed its desire to install, at a minimum, a six-foot chainlink fence on its property line. Such a privacy fence will limit the access of the residents of the Highlands Townhomes development to the public golf course and will limit the access of patrons of the public golf course to the Highlands Townhomes.

Several weeks ago, we held a meeting with the Highlands Neighborhood Association and explained the project. We have provided a copy of the draft Restrictive Covenants to the Neighborhood Association.

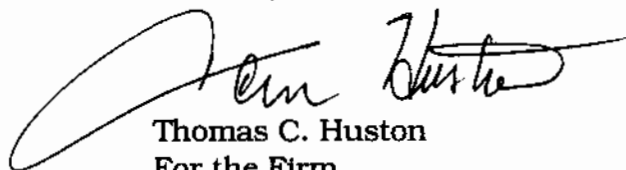
Accompanying this letter are the necessary sets of copies of the site plan for distribution to the various departments. You will also find a copy of the Application for the Use Permit and the application fee.

June 24, 2004

Page 3

Should you have any questions concerning this submittal, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Huston", with a large, sweeping loop at the beginning.

Thomas C. Huston
For the Firm

Enc.

c: Breck Collingsworth

Blake Collingsworth

Tommy Taylor, President, Highlands Neighborhood Assn.

Stephen Hiller, Lincoln Parks and Recreation

L0603796.1

Memorandum

To:	Becky Horner, Planning Department
From:	Chad Blahak, Public Works and Utilities
Subject:	Highlands Townhomes
Date:	7/07/04
cc:	Randy Hoskins

Engineering Services has reviewed the use permit for Highlands Townhomes, located west of North 12th Street and south of Fletcher Avenue, and has the following comments:

Sanitary Sewer - The following comments need to be addressed.

(1.1) There does not appear to be a need for the requested waiver of design standards for sanitary sewer location as the sewer pipe in question is existing and does not generally follow a street alignment.

(1.2) Public Works approves the requested waiver of design standards to construct sanitary sewer opposite of street grades provided that the minimum and maximum depths are not exceeded.

Water Mains - The following comments need to be addressed.

(2.1) Public Works approves the requested waiver of design standards to construct water mains on the south side of the private roadway as there are no units proposed on the north side and there is no sanitary sewer required on the south side of the road.

Grading/Drainage - The following comments need to be addressed.

(3.1) Additional information needs to be provided. A detail of the outlet structure and culvert for the proposed detention cell need to be shown. Post development flows need to be provided based on the proposed outlet structure to ensure the pre-development flows are not exceeded. Cross-section and capacity information needs to be provided for the swale that is shown to drain Area 'M' to the detention cell. Pre and post development flows need to be provided for the outlet at Area 'Q'.

(3.2) Area 'E' does not appear to have a sufficient emergency overflow for major storm events or if the storm system is blocked. The grading and/or site plan needs to be revised accordingly.

Streets - The following comments need to be addressed.

(4.1) Public Works approves the requested waiver of design standards for cul-de-sac geometry to provide a 30' radius turnaround for private roadways.

(4.2) Given the proximity to the NW 12th and Fletcher intersection, any driveway that would be proposed to take access to Fletcher from Lot 61 will be a right in/right out only connection. This

July 7, 2004

driveway should be shown at the west end of the lot.

General - The information shown on the preliminary plat relating to the public water main system, public sanitary sewer system, and public storm sewer system has been reviewed to determine if the sizing and general method providing service is satisfactory. Design considerations including, but not limited to, location of water main bends around curves and cul-de-sacs, connection of fire hydrants to the public main, temporary fire hydrant location, location and number of sanitary sewer manholes, location and number of storm sewer inlets, location of storm sewer manholes and junction boxes, and the method of connection storm sewer inlets to the main system are not approved with this review. These and all other design considerations can only be approved at the time construction drawings are prepared and approved.

I:\FILES\sieccb\Projects\2004-07-032\Word Files\hilndsthUP.wpd

Memorandum

July 9, 2004

TO: Becky Horner, Planning Department

FR: Lynn Johnson, Parks and Recreation

RE: Highlands Townhomes, 04002

Pursuant to our meeting of earlier today:

- 1) We are no longer opposed to the waiver for the rear yard setback of a number of the proposed residential units with the understanding that resilient building materials, such as concrete siding and tempered glass windows, will be used on the facades of buildings facing the golf course where the rear setback is reduced.
- 2) We are requesting that the subdivision agreement reference granting of an easement to the City of place an eight-foot tall chain-link fence at the top of the retaining walls proposed along the common property boundary in the mid and northern areas of the proposed development.
- 3) We have concerns regarding the impacts of sedimentation on Highlands Golf and associated irrigation pond during construction. We are requesting that the locations of sub-surface drains under the fairway adjoining the proposed development be noted and addressed on the sedimentation and erosion control plans. Jeff Gasseling, Golf Superintendent at Highlands Golf Course, may be contacted to assist in mapping these locations. We request an opportunity to review and comment on the sedimentation and erosion control plans. We also would like to receive a copy of the approved plans.
- 4) We have concerns regarding the volume and velocity of storm water discharging from the proposed detention pond onto the golf course. There is an area approximately 25 yards in length between the outfall of the detention pond and a 24-inch sub-surface drain under the fairway adjoining the development. We request that the developer and the City work cooperatively to identify and implement an appropriate solution to transmit storm water run-off from the detention pond to and through the sub-surface drain without adversely affecting the condition of the golf course.
- 5) It was suggested that the landscape plan for the screening along the common boundary between the proposed development and Highlands Golf Course be revised to include sufficient plantings to comply with screening requirements.

The developer has indicated a willing to work with the Parks and Recreation Department to fund additional trees to be planted along the eastern boundary of the golf course in the vicinity of the development.



Dennis L Roth

07/01/2004 12:40 AM

To: Rebecca D Horner/Notes@Notes

cc:

Subject: re: Highlands Townhouses

PROJ NAME: Highlands Townhouses
PROJ NMBR: UP #04002
PROJ DATE: 08/24/04
PLANNER: Becky Horner

Finding no DUPLICATE/SIMILAR names in our geobase for the street name proposed in this project, other than those which are an extension of an existing street. Ssee comments.

Dennis "denny" Roth, ESD II/CAD Admin
Emergency Communications 9-1-1 Center

STREETS: W Camoustick Ct, W Keating Dr, W Royal Dornoch Ct, W Webster Gailles Rd
and NW 14th St

PRIVATE:

COMMENTS: 1) W Webster Gailles Rd does align with the existing W Webster St and we would "prefer" that it be names "W Webster St". 2) W Royal Dornoch Ct appears on BOTH sides of NW 14th St and we would "prefer" that one side of the other be named Place or Circle to avoid any confusion.



MICHAEL WOOLMAN
<lpd737@CJIS.CI.LINC
OLN.NE.US>

06/28/2004 01:39 PM

To: R Horner <RHomer@ci.lincoln.ne.us>
cc:
Subject: Highlands Townhomes

Ms. Horner,

The Lincoln Police Department does not object to the Highlands Town Homes UP# 04002.

Sergeant Michael Woolman
Lincoln Police Department

IMPORTANT

Return this report with two sets of corrected plans. The corrections noted below are required to be made to the plans prior to issuance of a permit. Please indicate under each item where the correction is made by plan sheet number or plan detail number.

A separate set of plans for review and and final approval must be submitted by the licensed installing contractor/s if fire suppression systems, sprinklers, dry powder, fire alarm systems or underground tanks are installed.

Permit # **DRF04092**

Address

Job Description: Development Review - Fire

Location: HIGHLANDS TOWNHOMES

Special Permit:

Preliminary Plat:

Use Permit: Y 04002

CUP/PUD:

Requested By **BECKY HORNER**

Status of Review: Approved

07/07/2004 9:42:07 AM

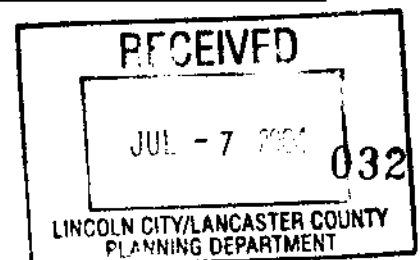
Reviewer: FIRE PREVENTION/LIFE SAFETY CODE

BOB FIEDLER

Comments: approved

Current Codes In Use Relating to Construction Development in the City of Lincoln:

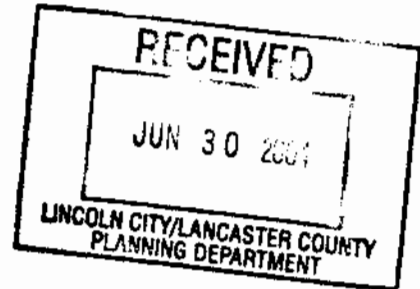
2000 International Building Code and Local Amendments
2000 International Residential Code and Local Amendments
1994 Nebraska Accessibility Guidelines (Patterned after and similar to ADA guidelines)
1989 Fair Housing Act As Amended Effective March 12, 1989
1979 Zoning Ordinance of the City of Lincoln as Amended including 1994 Parking Lot Lighting Standards
1992 Lincoln Plumbing Code (The Lincoln Plumbing Code contains basically the 1990 National Standard Plumbing Code and local community Amendments.)
1999 National Electrical Code and Local Amendments
1997 Uniform Mechanical Code and Local Amendments
1994 Lincoln Gas Code
1994 NFPA 101 Life Safety Code
2000 Uniform Fire Code and Local Amendments
Applicable NFPA National Fire Code Standards



INTER-DEPARTMENT COMMUNICATION



DATE: June 29, 2004
TO: Becky Horner, City Planning
FROM: Sharon Theobald
Ext 7640
SUBJECT: DEDICATED EASEMENTS
DN# 58N-14W



Attached is the Use Permit/Site Plan for Highlands Townhomes.

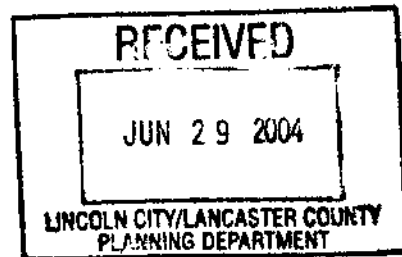
In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

ALLTEL, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map, along with blanket utility easements, as noted.

Sharon Theobald

ST/ss
Attachment
c: Terry Wiebke
Easement File

June 28, 2004



Ms. Becky Horner, Project Planner
Lincoln/Lancaster County Planning
555 South 10th
Lincoln, NE 68508

Subject: Lincoln Airport, Lincoln, NE
Use Permit 04002
Highlands Townhomes

Ms. Horner:

After reviewing the final plat we have the following comments.

Since the development is within the Airport Environs Noise District, the developer will need to comply with all provisions of Chapter 27.58 of the Lincoln Municipal Code, including the requirement for an aviation easement.

Second, it appears that a significant portion of the development is on property that has an elevation above 1,248'. Please refer to Chapter 27.59 and the associated Lincoln Airport Zoning Map. Per Chapter 27.59, development in the "shaded" areas should be required to go through the height permitting process to ensure they do not exceed allowable structure heights.

If you have any questions or comments, please advise.

Sincerely,

AIRPORT AUTHORITY

A handwritten signature in black ink, appearing to read "Jon L. Large".

Jon L. Large, P.E.
Deputy Director of Engineering

JLL/lb

cc: Mike Johnson, w/attachments

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Becky Horner

DATE: July 6, 2004

DEPARTMENT: Planning

FROM: Chris Schroeder

ATTENTION:

DEPARTMENT: Health

CARBONS TO: EH File

SUBJECT: Highlands Townhomes

EH Administration

UP #04002

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed development with the following noted:

- Kawasaki Motors Manufacturing Corporation USA is located northwest of this proposed development. Kawasaki Motors Manufacturing Corporation USA emits volatile organic compounds and hazardous air pollutants each of which can be sources for odor complaints. Recognizing the prevailing wind direction in the winter months, the LLCHD advises that odor complaints may be an issue relative to this proposed development.
- During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.

IN SUPPORT

ITEM NO. 1.1: USE PERMIT NO. 04002
(p.001 - Consent Agenda - 07/21/04)



Rebecca D Homer

07/21/2004 08:24 AM

To: Jean L Walker/Notes@Notes
cc:
Subject: Use Permit No. 04002

— Forwarded by Rebecca D Homer/Notes on 07/21/2004 08:25 AM —



DarDvorak@aol.com

07/20/2004 05:14 PM

To: rhomer@cl.lincoln.ne.us
cc:
Subject: Use Permit No. 04002

As a resident of northwest Lincoln, I feel this is an appropriate use for this land and would like to see the commission approve it.

Darlene Dvorak
331 Laramie Trail



"Kelly"
<kellike@alltel.net>
08/17/2004 10:23 PM

To: <mkroul@ci.lincoln.ne.us>, <mabendroth@ci.lincoln.ne.us>,
<dgottsch@ci.lincoln.ne.us>, <tmckinstry@ci.lincoln.ne.us>,
<jwalker@ci.lincoln.ne.us>, <kmorgan@ci.lincoln.ne.us>,
<dcary@ci.lincoln.ne.us>, <lchristy@ci.lincoln.ne.us>,
<dittmann@ci.lincoln.ne.us>, <agriffin@ci.lincoln.ne.us>,
<shenrichsen@ci.lincoln.ne.us>, <mminner@ci.lincoln.ne.us>,
<dross@ci.lincoln.ne.us>, <tcajka@ci.lincoln.ne.us>,
<gczaplewski@ci.lincoln.ne.us>, <mdekab@ci.lincoln.ne.us>,
<rhlll@ci.lincoln.ne.us>, <thomer@ci.lincoln.ne.us>,
<dlmiller@ci.lincoln.ne.us>, <bwill@ci.lincoln.ne.us>

cc:
Subject: Use permit # 04002

Wed.

Monday's planning commission meeting at 1:00 pm will be discussing and voting on the new development of townhomes in the Highlands area of Lincoln. It is use permit number # 04002.

We live very close to the area being considered and must tell you that we are unhappy with the idea of that development. Our neighborhood schools are already overcrowded and we have a large number of children in the area. The development would sit just off of NW 12th, a street that is relatively straight and lacking in many street signs; it is already a problem due to many speeding drivers. In addition to this, often people new to the area drive on the wrong side of the road assuming it is a two lane one way street.

The development site is directly next to the neighborhood pool and golf course. The children commonly dart across the street in these areas and with an increase in children and traffic a potential tragedy is sure to happen sooner rather than later.

I urge you to attend the planning meeting, or at the very least request more information be gathered before any permit is approved. As members of the Highlands Neighborhood Association we would appreciate your time and thoughtfulness on this matter.

Brian and Kelly Blackman



"David Claus"
<handyclaus@inebras
ka.com>

07/18/2004 10:39 AM

To: <plan@ci.lincoln.ne.us>
cc: <gbjorman@neb.rr.com>, <urbandev@lincoln.ne.gov>,
<amcroy@ci.lincoln.ne.us>
Subject: proposed highland townhomes

I'm writing in opposition to your recommendation going forward with this townhome development decision. Citing over crowding of schools, unknown traffic congestion from 112 homes times 2 cars, plus the unknown traffic from the Kawasaki connection, building blight regarding the view of 112 townhomes condensed into such a small area, citing the need to waive setback requirements to squeeze all this into this small space, questioning the wisdom which requires the city's money to build the barrier to benefit this development, letting the Collingsworth brothers have their way with you, disregarding the opinions of those already living in the area, having already made your statement before the public hearing. I feel our property values will be negatively affected, and that all possibilities have not been looked into, such as the building of single family homes, or scaling back the number of townhomes into a more appropriate number, more normal style and more expensive higher quality not the lowest priced housing in town built by the lowest builder and lived in by those who cannot afford something different. I'll see you at the meeting even though we have to take time off from our jobs to be there.

Thank you and be sure to share this message with all the planning commission, incl. Ms. Horner and Mr. Taylor.

David Claus
5615 NW 11th Cir
Lincoln, NE 68521
email: handyclaus@inebraska.com



Vodraska5@aol.com

To: plan@ci.lincoln.ne.us

cc:

07/20/2004 07:11 AM

Subject: townhomes in highlands

I live on NW Gary, which is not directly involved with the townhomes. We are about two to three blocks away from the Highlands Pool. Even though we are not that close, we still do not want the townhomes going in where they are planning to put them. We have children going to the pool daily right now that would be greatly affected by the townhomes. It would mean more traffic, more people, more students in our school (which is already overcrowded). NW 13th is already a race track for teens, imagine what it will be like if you add more cars to the area!

In a nut shell, my biggest concern is for the traffic and the school.

Thank You,

Concerned Citizen

Tghiskey@aol.com
07/19/2004 11:19 PMTo: plan@ci.lincoln.ne.us
cc: amcroy@ci.lincoln.ne.us
Subject: Highlands Neighborhood Community

Our names are Tom and Gail Hiskey. We are sending this email to voice our opposition to the permit No. 04002, which is the approximately 112 townhomes proposed to be built in the Highlands, near the Highlands Golf course. We are not against development in this area, but are very against this type of development at this magnitude. The density of 112 townhomes is far too much for this community in the Highlands. We are very concerned with the increased traffic flow behind our home, with the Highlands pool, and children coming and going on this street. Not to mention the speed that cars already travel at on this street. The impact on both our schools in this area are a great concern to this community, at this time the Highlands community send their children who are 6th grade thru 8th grade to the NorthStar High School, both Fredstrom and Goodrich Schools are over capacity, not to say that others schools are not - But we are the only community that has to send their 11 and 12 year olds to a High School for Middle School education. Tom and I were the first people to buy a lot on NW 12th Street (which the back of our home over looks the Highlands Golf Course) We went to Jeff Johnson, the developer of this land, we paid more for this land because of the location, and were very thrilled for the view. The idea of seeing the back of a compacted townhome village saddens us, again, we are not wanting to stop development, but this is prime land -- right at the 10th hole on a golf course. The idea of townhomes worth \$123,900 is terrible. I am very confident that all these homes in this area are worth much more than that, and our community would only want something to be comparable in this beautiful area. I personally have walked this neighborhood to get signatures of opposition to this type of development in our community and have had an unanimous concern from all neighbors, they mentioned the very low water pressure that we all have in this neighborhood and are concerned what will happen with this amount of population added to this community. We have personally drove past the townhomes that this developer has built in the South side of town, and there are no homes around them, to see the back side of these townhomes. Those townhomes are in a much better location for this type of housing. Please, I urge you to look at this development to better our Highlands community, rather than diminish our nice community, which we are very proud of. We would welcome you to come visit this area, our address is 5727 NW 12th Street. Tom and Gail Hiskey



Stankutaman@aol.com

To: plan@ci.lincoln.ne.us

cc:

07/20/2004 01:50 PM

Subject: (no subject)

This is a letter of opposition in regard to USE PERMIT NO. 04002 and the building of townhouses next to the Highlands Golf Course right off 13th street.

I have lived in the Highlands for the last 23 years because of the country-city atmosphere, lower crime rate, easy access to a lot of areas in town and a lesser amount of traffic. After looking at several areas in town, We still decided to build a house here three years ago on NW 12th because of the open view and stay in a neighborhood we have enjoyed. Also, all the houses on NW 12th and 13 th are designed with open living area facing west or toward the golf course which the builders used as a selling point. Our main concern is the devaluation of Our property values as most of the houses are valued at around \$200,000 and the townhouses are going for \$123,000. The plan for this townhouse development should be moreso named SARDINEVILLE. Also the developers have no concern that both the public and parochial schools are at capacity now, the low water pressure, one entryway on W Keating street to the development, another 250 cars or so crowding the street next to swimming pool and the Highlands, plus the scenic storage sheds at the end of the proposed area. Another great concern will be wonderful view of backsides of plain townhouses facing 13th Street and the sign alone on the upcoming townhouses is having an impact on a house for sale for the last 2 months on 12th and Keating.

Why couldn't this property have been used for a city park, a junior or executive golf course, plus if City Property needs to be used up, why wouldn't a very nice housing developing fly in this area.
sincerely, STAN KUTA 5733 NW 12TH



"Sartor Hamann
Downtown"
<downtown@sartorhamann.com>

To: <plan@ci.lincoln.ne.us>
cc:
Subject:

07/20/2004 04:21 PM

Planning Commission,

I have a concern about Use Permit #04002, in the NW 13th & W. Fletcher Ave. I have two primary concerns; first, I feel that the added traffic flow with the addition of approximately 112 townhomes with the possibility of multiple drivers per household would pose a threat to the numerous children that would cross 13th Street to get to the public swimming pool. My other concern is that adding townhomes to the neighborhood may attract buyers that have the intention of renting their properties. I have seen first hand what happens when people rent. I do not feel I need to explain the draw backs, as anyone has seen this for themselves. I take a great deal of pride in my home and my neighborhood, as do the others who live there. I want what is best for my family and the other families who have committed themselves to the Northwest Highlands. The purchase of our home will be the single largest purchase we will probably ever make and we wish to protect it. Thank you for your consideration.

Sincerely,

Greg Bridge



"I DEAL WHEELS"
<idealwheels@neb.rr.com>

07/21/2004 09:39 AM

To: <plan@ci.lincoln.ne.us>
cc:
Subject: use permit no.04002 nw12th & w. fletcher ave

My name is Tim Tonner I reside at 5721 NW 12th St Lincoln NE,68521.I request that this issue be removed from the "BLOCK" consent list. I also want it on record that I strongly oppose the TOWNHOUSE PROJECT for many reasons the first and foremost being that myself and the rest of the people that reside on my street bought the property for the beautiful view to the west of our homes(back yard). If the TOWNHOUSE PROJECT is approved the view and reason for living in the Highlands NW addition is gone, not to mention the huge reduction in property values of which we all paid top dollar for when we bought our homes.

Sincerely,

TIM TONNER



"Scott F."
<sfarwell@neb.rr.com>
07/21/2004 10:09 AM

To: <plan@ci.lincoln.ne.us>
cc:
Subject: USE PERMIT NO. 04002 - NW 12th Street and W. Fletcher Avenue

Re: USE PERMIT NO. 04002 - NW 12th Street and W. Fletcher Avenue

From : Scott Farwell
5745 NW 12th Street
Lincoln, NE 68521
Parcel Identification No: 11-03-127-006-000
Neighborhood: 7133 Highlands South

Planning Commission Members,

I am writing to you in regards to "Use permit NO. 04002" concerning a proposed 112 townhomes to be built west of NW 13th Street just north of the Highlands Golf Course Clubhouse and public swimming pool.

When I first looked at buying my new home I asked both the builder and the realtor about the future of the property across NW 13th street. I was told that it was commercially zoned for single story office buildings and that it would probably not be developed for at least the next 10 years by which time the neighborhoods to the north and west would be developed.

Allowing these high density townhomes to be built in this area will cause several problems in our neighborhood due to the surge in population unless the city can act immediately to rectify them before the townhomes are built.

1. Schools - Currently some of our neighborhood's children are being bussed to other schools due to school overcrowding in our area. Adding 112 townhomes will certainly add more children (112 if each family has only 1 child) to the school overcrowding problem. We need a new school before we can accommodate a large population increase.
2. Traffic & Safety - We currently have moderate traffic through NW 13th street past the area in question. We have hundreds of small children who cross NW 13th street every day during the summer to use the crowded public pool just north of the Highlands Golf Course clubhouse. Right now the current traffic load already concerns some parents due to the large number of children crossing NW 13th street. Adding 112 new townhomes to the area just north of the pool will definitely increase traffic on NW 13th street and will increase the danger to the children commuting to and from the pool. Pool overcrowding will become a problem as the population of children increases in our neighborhood. Parents are already bringing their children to the pool from other neighborhoods as far a way as Airpark.
3. Water Pressure - Currently our water pressure is so low in the highlands that underground sprinkler systems cost us 50 % to 70 % more just because of the increased number of zones (pipes and heads) required to accommodate the low water pressure. The pressure is low enough that you can't run 2 sprinklers from one faucet at a time. Washing clothes, washing dishes, or watering the lawn all take the pressure down far enough that it is very noticeable when you use a sink or the shower. When I talked to the city about our water pressure back in 2001, I was told that an auxiliary pumping station was to be built in our area to allow for the expansion of the highlands area and for possible new construction north of highway 180. We haven't seen or heard any more about it since then and my water pressure is still dismal. It was 52 lbs in 2001. A pressure of about 80 - 85 lbs would be more in line with parts of the city that have proper water pressure.
4. Sewage - We would need to have upgraded sewage handling capacity and insure that sewage from the

townhomes cannot in any way affect the sewage and drainage needs of our neighborhood. The townhomes should have to meet or exceed the city sewage standards as well.

5. - Taxes - It may adversely affect property values for the entire area, which while it's not my primary concern, it could effect the future property tax revenues collected by the city and county for our neighborhood and surrounding neighborhoods. In addition, the increased population would require more of that tax money to be spent in our neighborhood building new schools, upgrading our water and sewage systems, and controlling the increased traffic flow.

I feel that this kind of high density housing is not good fit for the neighborhood. I feel that quality and aesthetic standards that have been set for our neighborhood and surrounding neighborhoods will be reflected on poorly by having these high density townhomes adjacent to our neighborhood.

I think a more appropriate place for this townhome development would be east of highway 180 between Fletcher Avenue and I-80.